

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

VIOLET LYNN MOSELEY,

Plaintiff,

v.

CIVIL ACTION NO. 5:15-cv-13238

NANCY A. BERRYHILL¹,
Acting Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

By *Standing Order* (Document 4) entered on September 18, 2015, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). Subsequently, by *Order* (Document 10) entered on January 5, 2016, the case was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings of fact and recommendation for disposition.

On December 21, 2016, Magistrate Judge Aboulhosn submitted a *Proposed Findings and Recommendation* (Document 18) wherein it is recommended that the *Plaintiff's Motion for Judgment on the Pleadings* (Document 12) be denied; the Defendant's *Brief In Support of Defendant's Decision* (Document 14) be denied; the final decision of the Commissioner be

¹At the time this civil action was filed, Carolyn W. Colvin was serving as the Acting Commissioner of Social Security.

reversed; and this matter be remanded back to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further proceedings in order to correct the reliance on the mistaken interpretation of the medical record of evidence consistent with the *Proposed Findings and Recommendation*.

Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were originally due on January 9, 2017; however, the Plaintiff sought, and was granted, an extension of the deadline until January 30, 2017. No objections were filed by either party.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *see also Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983) (holding that districts courts may adopt proposed findings and recommendations without explanation in the absence of objections).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*. The Court **ORDERS** that the *Plaintiff's Motion for Judgment on the Pleadings* (Document 12) be **DENIED**; the Defendant's *Brief In Support of Defendant's Decision* (Document 14) be **DENIED**; the final decision of the Commissioner be **REVERSED**; this matter be **REMANDED** back to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further proceedings in order to correct the reliance on the mistaken interpretation of the medical record of evidence consistent with the *Proposed Findings and Recommendation*; and this matter be **DISMISSED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this *Memorandum Opinion and Order* to Magistrate Judge Aboulhosn, counsel of record, and any unrepresented party.

ENTER: January 31, 2017



IRENE C. BERGER

UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA